IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.479 OF 2004

Bapu Daji Ghotpagar ...Appellant

vs.

Kashinath Shankar Yadav & Ors. ...Respondents

CORAM: A.S.OKA, J.
DATED: JULY 26, 2006.

P.C.:

1. Heard the learned Counsel for the Appellant. The Appellant is the original Defendant No.1. The Trial Court decreed the suit and the Appellate Court has confirmed the decree. The learned Advocate for the Appellant submitted that the sale deed at Exh.137 is not the original document but it is only a photo copy of the sale deed. He submitted that no case was made out by the original Plaintiffs for leading secondary evidence. He submitted that the document at Exh.137 was not admissible in the evidence. He submitted that the vendor of the sale deed has no right to transfer the said property.

2. The evidence discloses that the document at Exh.137 is not a photo copy but it is a certified copy of the sale deed which was produced in evidence through a Clerk in the office of the Sub Registrar. The deposition of the said witness shows that the certified copy of the sale deed was admitted in evidence without any objection from the parties.

Moreover, the contention regarding admissibility of the sale deed does not appear to have been raised before the Appellate court. Though the said contention was raised in the Memorandum of Appeal,the Appellate Court was under no obligation to consider the same unless it was specifically urged before it.

3. The second contention is also not specifically agitated before the first Appellate Court. Considering the findings by the Appellate Court on the point No.2 for consideration, no case is made out for interference. The concurrent findings of fact are recorded on appreciation of oral and documentary evidence on record. No substantial question of law arises. Second Appeal is dismissed with no order as to costs.

Judge.